

APPEALS COURT UPHOLDS LAW ON ALIEN LABOR

Only American Citizens May Be Employed on Public Works.

CASE WILL GO TO FEDERAL BENCH

City Now Faces Crisis, P. S. C. Declares, in Subway Situation.

The decision of the Court of Appeals yesterday upholding the constitutionality of the alien labor law, which prohibits the employment of aliens on public works, may be carried to the Supreme Court of the United States. The Public Service Commission, in a statement issued last night, intimated that the federal Constitution question is involved.

A. Crane, secretary of the Contractors' Association and one of the defendants in the case, will appeal the case to the United States Supreme Court. It is likely that an application will be made to Justice Hughes for a writ of stay and expedition. The calendar of the court is so clogged that the case would be delayed for a year and a half if the writ of expedition is not granted.

The decision of the Court of Appeals means that no alien can be employed on the city's subway work. It means, moreover, that no alien can be employed on any public works in the state, which include the large canal work, sewer work, and other construction enterprises undertaken by the state and city.

If the decision is upheld it will mean a reorganization of the city's subway construction work. The contractors who oppose the law say it means delay and added expense in the building of the dual system. If the contracts are forfeited, as the law requires, a great amount of litigation will result, they say.

Millions in Contracts Held Up. The city now has outstanding construction contracts aggregating \$142,000,000 for new subway and elevated lines. Some of these contracts are nearly completed, others are only just beginning, and some are in various intermediate stages of construction. There are thirty separate contracts for the construction of the new subway line.

The prevailing opinion of the court was written by Justice Cardozo, and concurred in by Chief Justice Bartlett and Justices Seabury, Chase, Hogan and Miller. Justice Collins wrote a dissenting opinion. The constitutional question is discussed by Chief Justice Bartlett, who says:

"It seems to me that the only constitutional provision which can be relied upon with any confidence to invalidate the statute forbidding the employment of aliens is the Fourteenth Amendment of the Federal Constitution, which declares that no state shall deny to any persons within its jurisdiction the equal protection of the laws. The Constitution could hardly have been intended to deprive the states of equality with private employers in this respect."

"The equal protection of the laws," says Judge Cardozo, "due to aliens as to citizens, but equal protection does not mean that those who have no interest in the common property of the state must share in that property on the same terms as those who have an interest."

In its statement the Public Service Commission points out the importance of the decision, and declares that "it makes a crisis in the construction of the dual system of rapid transit."

The alien labor law, which was a dead issue on the statute books until the Bricklayers and Masons' Union revived it, prohibits the employment of aliens on public works, and provides that contracts on which alien labor was employed shall be forfeited. It was tested in the courts by both civil and criminal suits.

William E. Heim brought a taxpayer's suit to restrain the Public Service Commission from declaring forfeited contracts for the construction of subways. Criminal proceedings were brought against Clarence A. Crane, who represented the contractors. Crane was found guilty in Special Sessions and fined \$50.

The case was appealed. The Supreme

Court sustained the law, and the defendant appealed to the Appellate Division, which reversed the lower court, holding the law to be unconstitutional.

While this litigation was on contractors on the new subway work became alarmed. One of the concerns, the Oscar Daniels Company, which had the contract for the White Plains Avenue extension, suspended work. Others threatened to do so.

Decision Pleases Unions. Jeremiah A. O'Leary, attorney for John Gill, the representative of the labor unions in the legal fight, said last night:

"The State of New York is to be congratulated upon the decision by the Court of Appeals. While millions of dollars may be lost by the contractors on the subway, that loss will be gained by American citizens, the people generally, and particularly the people who need work that is to say, American citizens will gain by this decision. It will put an end to the padrone system, so far as the subway is concerned. It will also stop the importation of aliens in anticipation of great public works. The decision also means, in that it will compel the contractors working upon the subway to employ American citizens who have families dependent upon them."

BUILDING PLANS AT BEACHWOOD

Approach of Warm Weather Brings Activity at New All-the-Year-Round Resort.

Plans for the erection of the first cottages at Beachwood, N. J., where the Tribune is directing the establishment of a new summer and winter resort, are being rushed to a speedy completion with the approach of warm weather. A number of requests for information regarding architects and contractors have already been received.

The Tribune's Promotion Department, the department is now prepared to advise with contractors on details of building there.

During the Washington's Birthday holidays several hundred holders of Beachwood lots made the trip to the resort to look over their properties and to see the improvements which are being made. The formal opening of the new tract, which lies on the Jersey Central Railroad at the junction of Toms River with Barnegat Bay, is set for Memorial Day. Already the finishing touches are being put on the new hotel and other community buildings which The Tribune is causing to be erected.

At the present time several hundred laborers from Toms River and vicinity have been given employment in the work of opening up this new tract of land. The tract extends for more than a mile along Barnegat Bay, adjoining the town of Toms River on the east. The land is high and dry, with a plentiful supply of pine trees upon it. It is almost the last of the many large tracts to be subdivided and thrown open for summer resort purposes.

The work now going forward in the new town includes the construction of a number of buildings and the opening up of what will eventually be some eighty miles of streets. Already forty miles of these have been laid out. The buildings now rising or completed are a hotel, a yacht club and pier, a depot and three rows of bathhouses, the latter with forty-eight rooms. The hotel is in the Spanish mission style of architecture, built around a court or patio. It will have thirty-seven rooms. The dining room and kitchen are in a separate building near the hotel. With the spring and summer will see marked activity in building construction.

WHITMAN MUM ON P. S. C.

Governor Refuses to Discuss Candidates for Jobs.

Before he returned to Albany yesterday afternoon Governor Whitman said he had offered places on the Public Service Commission here to no one as yet, in spite of stories to the contrary. He added, in regard to the report that the colonel might be chairman of the commission, "His method of handling the inquiry has been admirable. When the proper time comes I shall probably consider him."

It is known that strong arguments have been presented to the Governor for the appointment of Travis H. Whitney, at present secretary of the commission, or the reappointment of Commissioner Maltbie, or both, on the ground that it might be dangerous to the continuity of the work not to have at least one experienced man in the new commission.

The Governor said he did not agree with Warden Osborne, of Sing Sing, that capital punishment should be abolished. As to the warden's suggestion for a farm colony, he thought the idea all right, but he could not approve of it in view of the state of public finances.

P. S. C. Failed in Duty, Investigators Declare

MAYOR MITCHEL ON THE STAND.



Senator Thompson has told the Governor he did not believe such charges should be preferred by the committee. Whoever makes the charges, the Governor will be obliged to serve the accused with a copy of them and give him ten days in which to appear for a hearing. After the hearing the Governor is the sole judge of whether removal shall follow or not.

The witnesses examined by the committee at the public hearing in City Hall yesterday proved a great deal. While Mayor Mitchell was giving his views as to the work of the commission and of the law many were standing in the back of the room. Then there was the caustic critic of the commission, Frederick W. Whitridge, president of the Third Avenue Railroad, who glories in the fact that he has defied its orders. He told his opinion of the body in general, and particularly the one first appointed by Governor Hughes, in terms so rich in expressions of supreme contempt that the members of the committee could not keep their faces straight.

Other witnesses were President McAneny of the Board of Aldermen and former Commissioners William McCarroll and Edward M. Bassett. These three and Mayor Mitchell agreed that the law as a regulatory instrument should not be changed.

McCarroll Opposes Change.

Mr. McCarroll was the only one who did not believe that the law should be changed. He said he should be taken from the state commission and turned over to the city government. The Mayor and President McAneny expressed the belief that this divorce should be accomplished as a part of the new charter, which should take effect on the incoming of the next city administration.

With his white beard, trimmed to a point and his long mustache, twisted to a needle's end, Mr. Whitridge, who some years ago published at his own expense the correspondence between himself and the commission, was a distinguished figure as he took the stand. From the start he bore right on to the law as it was, and what a ridiculous body the commission is.

"I believe their judicial functions should be taken away from them," said Mr. Whitridge when he got around to changes in the law under which the commission is operating. "I am convinced they are not fit to exercise them. No body should be at the same time a grand jury, a prosecuting attorney and a judge."

The witness went on to cast aspersions on an opinion of seventy pages, written by Commissioner Maltbie, in an attempt to show that the Fifty-ninth Street Railroad should not be permitted to issue securities for more than \$1,500,000.

Takes Dig at Maltbie.

Application was first made for the issuance of \$2,500,000, and after Mr. Whitridge had taken the case to the Court of Appeals the Commission permitted him to issue securities to the extent of \$2,100,000 in good money for that line, said the witness, "and I want to say that in addition to putting aside \$600,000 for depreciation, I have earned 5.35 per cent on the investment, which only goes to show what Mr. Maltbie knew about it."

Chuckling softly for a moment, Mr. Whitridge added:

"Why, the printing of that seventy pages of opinion cost the state more than all the joy rides the commissioners have had since. And I might say the court never paid any attention to it."

Next the witness went on to take away the construction work from the Commission. "I would do this," he said, "because there have been delays and from what I know the job is not well done. Why not get Colonel Goethals and have him finish the work? He did not have such a vast army of engineers for the Panama Canal as the Commission has."

"What about the powers of regulation," said Mr. Hayward.

"I think the Commission should be confined to giving the utmost publicity to derelictions on the part of public service corporations," was the reply. "Nobody can stand publicity—not even a commissioner if he is not honest. A commission such as we have had can't be trusted to take charge of regulation."

"You would take away the judicial functions, the construction work and the regulatory powers," asked Assemblyman Knight, "who would then be left for a commission to do?"

"Plenty, and it would keep one or two able and active men busy if they attended to their business," was the reply.

"You think the Public Service Commission ought to be continued, then?" asked Senator Thompson, somewhat skeptically.

"I am sorry to say that I do think so," said Mr. Whitridge. "Things were getting into a scandalous state in this country. The result would have been disaster, ruin, disgrace. If all men were honest, there need be no regulation. I think, however, the experience of the last few years has shown us the government should exercise some sort of regulation or supervision."

"How would you go about getting efficient regulation if you were a Public Service Commissioner?" asked Senator Thompson, and his manner showed he thought he had propounded a puzzle.

"I wouldn't do anything," said Mr. Whitridge, "until I got a complaint. Then I would look into it. If the facts were true I would say to the company,

other department with which it might be amalgamated, except possibly the Bridge Department. He thought it possible that a law could be passed now that would bring about the desired result in 1918.

"Do you think the commissioners should be elected?" asked Senator Foley.

"As a state commission, I think they should be appointed, so as to keep the responsibility with the Governor," was the reply.

The Mayor begged to be excused from answering a question as to whether he thought the commissioners were efficient, but he did volunteer a tribute to the work of Mr. Maltbie. He thought \$15,000,000 too large for a salary.

"I believe the present law is adequate," said former Commissioner McCarroll, "but if the attitude of the public service corporations is going to be such as was exhibited this afternoon by Mr. Whitridge I think it would be a good thing to arm the law with even sharper teeth and broader powers."

"I don't think you will find a better piece of engineering on the globe," said President McAneny, expressing the view that construction should not be taken out of the hands of the commission before 1918. He said he thought the commission was efficient as a construction agency, but dodged an answer as to its regulatory efficiency.

Former Commissioner Bassett said the regulatory work had been hampered to the point of inefficiency by the overwhelming pressure of construction work. However, he thought it should be three or four years before construction was taken from the commission. When time came he would be in favor of a salary.

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FREDERICK W. WHITRIDGE LISTENS.

PHOTO BY STAFF PHOTOGRAPHER

Here is the case, now, this condition has got to be stopped."

"What if they wouldn't obey?" "I would hold a hearing and have the press there. I am a great believer in the power of public opinion."

Starting his testimony, Mr. Whitridge said that in trying to enforce the purposes of the law the Hughes commission made it ridiculous.

"It was just as if a boy got a new pistol," he said, "and was so pleased with his possession that he fired it off in every direction as fast as it could be loaded. They were so infatuated with making orders that they learned the receivers of the Metropolitan were shot to wait until the commission could issue a formal order for it."

A sad picture was drawn by the witness of how he had taken charge of the Third Avenue car receiver when there was not so much as a tack hammer left in the car shops, and he read an order issued two weeks after he took hold, requiring him to put all his tools in the trunk of condition. He paid no attention to it, and when a hearing was ordered did not go to it, as it would have been silly."

Tangle Over Equipment.

"Anybody with the common sense of a rabbit would have known better than to have asked me to give them plans of the equipment I intended getting before I got it," added the witness. "We compromised, and I furnished the plans after the equipment had been brought. Then they said they would not approve the cars. Now that type has become standard."

Mr. Whitridge picked up a number of pamphlets, and spreading them out with an air of disgust, said:

"They have got some sort of a doctor of philosophy over there, who had never kept a set of books in his life, but he insisted upon wonderful monthly, quarterly and yearly reports. I leave them with you, for they are so marvellous like them has been since the beginning of the world."

Mr. Whitridge had another good laugh over the time when the courts awarded \$1 penalty to the commission against his road in the Fort George loop case.

"The foreman of the jury told me later he thought I would rather have a verdict for \$1 against me than to have the trouble to fight an appeal. That is the only \$1 the commission ever got as a penalty, and I understand they had it framed and hung in their office."

"I think I am run down," said the witness as he left the stand, promising to write if he thought of anything more the commission ought to know."

Mitchell Favors Dual Plan.

Mayor Mitchell, cool and smiling, took the stand for a late afternoon session. He said he believed two commissions were necessary and thought one should have its activities confined exclusively to this city.

"The law is adequate," he declared. "It is a question of administration, given good, efficient commissioners, dealing with the problems day in and day out. It did not seem to me the administration was efficient, and early in the year I established a bureau in the Law Department, through the aid of which citizens could present cases more effectively to the commission."

"Speaking first from the point of view as Mayor, I am not anxious to see it done now, and the work of executing the big subway contracts turned over to the city government. The business of the Board of Estimate is heavy. Logically speaking, the planning for and executing of rapid transit lines ought to lie in the local city government. It seems the best time to transfer it would be when we get our new charter in effect, say January 1, 1918. Then there might be this division—the regulation of contracts, the determination of plans and policies should be under the Board of Estimate, and the work of construction should be in a city department under the Chief Executive of the city."

The Mayor could not think of any

TAFT SEES SHODDY IN SCHOOL SYSTEM

Urges Standardization by Establishing a National University.

Cincinnati, Feb. 25.—Professor William H. Taft, of Yale University, speaking before the convention of the Department of Superintendence of the National Education Association here to-day, said:

"The cause of free public education is more sacred and of more fundamental importance than almost any other before our people. It is one that awakens the profound interest of the people and commands the greatest and most willing self-sacrifice by the taxpayer public. The consequence of this error is that our school systems are not as much scrutinized as they should be. Indeed, it is now difficult for the public of a community to learn the facts as to the thoroughness of the discipline and of the knowledge imparted in their schools or of economy in the expenditure of their funds devoted to education. Parents are themselves not qualified to pass upon the result of a public school system in a town, county or district in such a way as to make their opinion the best criterion. Hence there is a great opportunity for fraud and shoddy in the product concealed under a cloak of a pretentious curriculum and glowing annual reports."

What we need in the country is an opportunity for standardization and comparison of school systems in the different states and different cities. This, I think, we might have by establishing that Washington recommended a national university in Washington.

"The Bureau of Education might well be enlarged into a university, which should not be a teaching university, but one with a corps of experts who could offer to the people of all the

states and the people of all local communities the opportunity of having their respective school systems examined and reported on as to proper scope, efficiency, thoroughness and economy."

The pressure of the taxpayers upon their particular school authorities to apply for an examination and report would be so great that it would soon become equivalent to a compulsory system. It would stimulate school authorities to earnest work. It would eliminate shoddy, pretence and show, would minimize exploiting and publicity methods, and would give a proof of excellence and comparative high standing that would be incontestable."

A refusal to admit immigrants because of ignorance is an acknowledgment of this country's incompetence to deal with the immigrant question, according to Dr. Albert Shiel, Director of Reference and Research of the New York City Department of Education. Dr. Shiel contended that immigrant illiteracy constituted more than 90 per cent of the total illiteracy in large cities. In an analysis of both skilled and unskilled labor Dr. Shiel indicated that illiteracy and inability to speak and understand English handicapped a proper distribution of skilled labor and isolated the immigrant in urban communities.

Delegates to the convention were entertained to-night at a complimentary concert and will finish their session to-morrow.

BREADLINE FOR JUDGES

Devoted Three Must Eat and Eat and Award Prizes.

Three judges will struggle through a mass of muffins, cream of tartar biscuits and loaves of bread, white and whole wheat, this afternoon at the headquarters of the Housewives' League, 25 West Forty-fifth Street, and award twenty-eight prizes. Every borough in the city is represented in the display, arranged to show that bread making is not a dead art in New York.

Two of the judges were announced last night. They are Miss Martha Westfall, who teaches domestic sci-

ence in the public schools, and Miss May Brockman, supervisor of domestic science in the evening schools. They will have the assistance of a representative of the Master Bakers' Association.

The contest furnishes many unusual features. For instance, Mrs. Sarah Weekes Hoppin, of 122 East Twenty-second Street, has sent in two loaves running since 1860. Fireless cookers, unknown in 1860, have aided in the preparation of many of the entries.

Announcement of the winners will be made to-morrow afternoon. Mayor Mitchell has been invited to attend, and various other city and borough officials have indicated that they would be present. Meanwhile the exhibit is open to the public.

CAMMEYER SHOES

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One of our greatest authorities on the wheat industry in the United States points out the harm inflicted to the farm through a heavy wheat yield. He shows what happens afterward to the farmer—and to the rest of us.

In Next Issue—February 28th

The Sunday Tribune

Order from Your Newsdealer To-Day

Assets \$200,000 Above Liabilities, Lawyers Say.

The Tribune received yesterday from the attorneys of Adolf Mandel a letter in which they wrote:

"In this morning's issue of your newspaper you make reference to Adolf Mandel, our client, as 'insolvent banker.' We desire to call to your attention the fact that Mr. Mandel is not insolvent and that he has not been adjudicated such by any court; that on the contrary he is solvent and is contesting the charge of insolvency wherever Mr. Mandel's assets exceed his liabilities by about \$200,000."